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Filing date: **12/18/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204777
Party	Plaintiff Apple Inc.
Correspondence Address	JOSEPH PETERSEN KILPATRICK TOWNSEND STOCKTON LLP 1114 AVENUE OF THE AMERICAS, 21ST FLOOR NEW YORK, NY 10036 UNITED STATES JPetersen@kiltown.com, AlJones@kiltown.com, ARoach@kiltown.com, agarcia@kiltown.com, NYTrademarks@kiltown.com, tadmin@kiltown.com
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Signature	/Joseph Petersen/
Date	12/18/2013
Attachments	2013-12-18 Declaration of J. Petersen ISO Motion to Extend Opposer's Testimony Period for Limited Purposes.pdf(16868 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. **85/379,097**

For the mark: **CRAPPLE**

Filed: July 22, 2011

Published: December 20, 2011

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APPLE INC.,	:	
	:	Opposition No. 91204777
Opposer,	:	
	:	
v.	:	
	:	
NINJA ENTERTAINMENT	:	
HOLDINGS, LLC,	:	
	:	
Applicant.	:	
-----X	X	

**DECLARATION OF JOSEPH PETERSEN IN SUPPORT OF APPLE INC.'S
MOTION TO EXTEND OPPOSER'S TESTIMONY PERIOD
FOR LIMITED PURPOSES**

I, Joseph Petersen, make the following Declaration:

1. I am a partner with the law firm of Kilpatrick Townsend & Stockton LLP and am one of the attorneys representing Opposer Apple Inc. ("Apple") in this action against Applicant Ninja Entertainment Holdings, LLC ("Applicant").
2. To complete the evidence Apple intends to present, Apple must take—and obtain and file the transcript of—the testimony deposition of Thomas R. La Perle, Director, Legal, Apple Inc., whom Apple disclosed both in its Initial Disclosures and in its Pretrial Disclosures.
3. On October 25, 2013, Apple filed a motion for a 60-day extension of its testimony period through January 5, 2014 for limited purposes, including to take and submit the testimony of Thomas R. La Perle.

4. On December 3, 2013, the Board granted Apple's unopposed motion to extend its testimony period through January 5, 2014 for limited purposes.

5. Since filing its October 25, 2013 motion to extend its testimony period, Apple has diligently sought to schedule and hold Mr. La Perle's testimony deposition. Apple has twice scheduled the testimony deposition of Mr. La Perle with appropriate notice to Applicant. Both times, Apple has postponed the deposition the day before in order to accommodate Applicant's counsel.

6. On November 1, 2013, Apple served on Applicant by First Class Mail (courtesy copy by email) a Notice of Testimony Deposition of Thomas La Perle, to be held on November 13, 2013 at Apple's offices in Cupertino, California.

7. The location for Mr. La Perle's deposition was subsequently changed to Apple's offices a few miles away in Sunnyvale, California, and on November 7, 2013, Apple served on Applicant (again by First Class Mail, courtesy copy by email) an Amended Notice of Testimony Deposition of Thomas La Perle, reflecting the updated address for the deposition location.

8. Applicant's counsel advised Apple that he would be unable to attend the November 13, 2013 deposition in person. In response, Apple made arrangements for Applicant's counsel to participate by phone and, on November 8, 2013, provided Applicant's counsel with a dial-in phone number and passcode to use on the date of the deposition.

9. The next week, on the evening before the deposition, Applicant's counsel requested that Apple make arrangements to permit him to participate in the deposition via video conference. To accommodate Applicant's counsel's, Apple agreed to postpone the November 13, 2013 deposition so that it could be rescheduled with video conferencing capabilities, and

Applicant's counsel agreed to stipulate to extend Apple's testimony period through January 5, 2014.

10. On November 16, 2013, the parties agreed to reschedule Mr. La Perle's testimony deposition for November 21, 2013 at 1:00 pm Pacific Time.

11. On November 20, 2013, Applicant's counsel advised that he would be unable to participate in the deposition on November 21st because of a death in his family. Under the circumstances, Apple readily agreed to postpone the deposition.

12. In December, Apple emailed Applicant's counsel several times requesting dates to reschedule Mr. La Perle's deposition before the Christmas and New Year's holidays. Applicant's counsel has not yet responded to these requests. To date, Applicant's counsel has not provided Apple with his availability for the rescheduled deposition.

13. Apple has requested Applicant's consent to a further 60-day extension of Apple's testimony period for the purpose of taking and submitting Mr. La Perle's testimony. Applicant's counsel has not yet responded to Apple's request.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: December 18, 2013

/s/Joseph Petersen
Joseph Petersen

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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Opposer,	:	
	:	
v.	:	
	:	
NINJA ENTERTAINMENT	:	
HOLDINGS, LLC,	:	
	:	
Applicant.	:	
-----X		

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing DECLARATION OF JOSEPH PETERSEN IN SUPPORT OF APPLE INC.'S MOTION TO EXTEND OPPOSER'S TESTIMONY PERIOD FOR LIMITED PURPOSES has been served on Ninja Entertainment Holdings, LLC by sending a copy via e-mail to Daniel Kelman at danielkelman@gmail.com and depositing a copy with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to:

Daniel Kelman
1934 Josephine Street
Pittsburgh, Pennsylvania 15203

This the 18th day of December, 2013.

/s/Allison Scott Roach